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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,417	06/26/2003	Arun V. Shastry	02280.003530	4883
5514	7590	01/24/2006	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			FAISON, VERONICA F	
			ART UNIT	PAPER NUMBER
			1755	

DATE MAILED: 01/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/606,417	SHASTRY ET AL.	
Examiner	Art Unit		
Veronica F. Faison	1755		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on December 19, 2006.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 3-5,7,8,10-17,19,20,22,23,25,28-30 and 33-41 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 3-5,7,8,10-17,19,20,22,23,25,28-30,33-41 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_ .

## DETAILED ACTION

### ***Response to Amendment***

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 3-5, 7, 8, 10-17, 19, 20, 22, 23, 25, 28-30, and 33-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reitnauer et al (2003/0101902) in view of Kojima et al (US Patent 6,450,615).

Reitnauer et al teaches a method for forming a mark on a food product wherein the ink composition comprises a wax and colorant, and may further comprise a resin

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and antioxidant (abstract and page 1 para. 0011). The reference further teaches that the resolution of the mark can be at least 50 dpi and the food product may be an egg, cheese, fruit or a confectionary (page 1 para. 0008-0009). The wax may be selected from beeswax, candelilla wax, carnauba wax, polyethylene glycol and cocoa butter wherein the wax is present in the amount of 50 to 99 percent by weight (page 2 para. 0019-0020). The colorant may include a pigment or dye (page 2 para. 0025-0026). The ink composition may further comprise a stabilizer (page 2 para. 0027). The ink composition may include other conventional hot melt ink components, wherein the amount of the components may be included in the ink to provide the desired viscosity (page 3 para. 0030). Reitnauer et al also teaches that the ink may be used in a conventional hot melt ink jet printer, piezoelectric printer (page 3 para. 0033-0034). Reitnauer et al fail to teach the specific printing method.

Kojima et al teaches a droplet ejection apparatus that may be used with various types of ink compositions (abstract). The reference further teaches that the printing apparatus has a resolution of 300 dpi or higher (col. 2 lines 39-50). The reference discloses that in general ink used for a droplet ejection apparatus has a viscosity of 8 to 15 cp in the case of a hot melt ink composition and the surface tension for any of the inks would be in the range between 10 and 70 dyne/cm (col. 3 lines 26-31).

Therefore it would have been obvious to one of ordinary skill in the art to use the ink composition as taught by Reitnauer et al in the apparatus of Kojima, because Kojima apparatus may be used with hot melt ink compositions like that taught by Reitnauer et al.

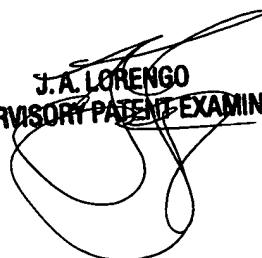
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Veronica F. Faison whose telephone number is 571-272-1366. The examiner can normally be reached on Monday-Thursday and alternate Fridays 8 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on 571-272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

VFF  
1-10-06

  
J.A. LORENZO  
SUPERVISORY PATENT EXAMINER